

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

NAYVON HILL,

Defendant-Appellant.

UNPUBLISHED

October 30, 2001

No. 224681

Saginaw Circuit Court

LC No. 93-007788-FH

Before: Whitbeck, P.J., and Neff and Hoekstra, JJ.

MEMORANDUM.

Defendant was convicted of unarmed robbery, MCL 750.530, resisting and obstructing a police officer, MCL 750.479, and driving on an expired operator's license, MCL 257.301, following a 1993 jury trial. The driving on an expired license conviction was later vacated. On November 18, 1999, following two remands from this Court, the trial court sentenced defendant as a fourth felony offender, MCL 769.12, to ten to twenty years' imprisonment for the robbery conviction and eighteen months' to two years' imprisonment for the resisting conviction. Defendant appeals this sentence as of right. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant argues that his sentence is disproportionately harsh given the circumstances of the offense. This court reviews a trial court's sentence imposed on an habitual offender for an abuse of discretion. *People v Hansford (After Remand)*, 454 Mich 320, 323-324; 562 NW2d 460 (1997). A trial court does not abuse its discretion in sentencing an habitual offender within the statutory limits established by the Legislature when the offender's underlying felony, in the context of previous felonies, evinces the defendant's inability to conform his conduct to the laws of society. *Id.* at 326.

Here, because defendant was sentenced as a fourth felony offender, he could have been sentenced to life imprisonment. These were his tenth and eleventh felony convictions, and he was on parole at the time the offenses were committed. Through his extensive record, as well as his record with the Department of Corrections, he has clearly demonstrated his inability to reform or conform his conduct to the law. Furthermore, the judicial and legislative sentencing guidelines play no role in our analysis of this issue. See *People v Reynolds*, 240 Mich App 250, 253; 611 NW2d 316 (2000) (legislative sentencing "guidelines apply only to offenses committed on or after January 1, 1999"); *People v Kennebrew*, 220 Mich App 601, 612; 560 NW2d 354

(1996) (judicial sentencing “guidelines do not apply to appellate review of sentences for an habitual offender”). Consequently, the trial court did not abuse its discretion. *Hansford, supra*.

Affirmed.

/s/ William C. Whitbeck

/s/ Janet T. Neff

/s/ Joel P. Hoekstra